

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

STEPHANIE GORDON,

Plaintiff,

v.

ANDREW SAUL, Acting Commissioner of
Social Security,¹

Defendant.

Case No. 2:19-cv-01046-GMN-EJY

REPORT AND RECOMMENDATION

Re: Order Granting Application for Leave to
Proceed *in forma pauperis* (ECF No. 4)

This matter is before the Court on Plaintiff's failure to comply with the Court's Order (ECF No. 4). On August 16, 2019, this Court granted Plaintiff's Application for Leave to Proceed *in forma pauperis* (ECF No. 1), and dismissed Plaintiff's Complaint (ECF No. 1-1) without prejudice with leave to amend. Specifically, the Court held that:

Plaintiff fails to state the necessary elements (or allege facts that would support the necessary elements) of her civil claims against the Social Security Administration. Plaintiff cannot pursue a claim based on criminal statutes. The Court therefore will dismiss Plaintiff's Complaint without prejudice for the Plaintiff to file an amended complaint.

ECF No. 4 at 3:6–9.

In light of the above, the Court gave Plaintiff "30 days from the date of [the] Order" to file an amended complaint. *Id.* at 4:8–9. Plaintiff was warned that a "[f]ailure to comply with this Order may result in a recommendation that this action be dismissed." *Id.* at 4:9–10.

To date, Plaintiff has not submitted an amended complaint, requested an extension of time, or taken any other action to prosecute this case.

¹ Andrew Saul is the current Commissioner of Social Security and is automatically substituted as a party pursuant to Fed. R. Civ. P. 25(d). *See also* 42 U.S.C. § 405(g) ("Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.").

1 Accordingly,

2 IT IS HEREBY RECOMMENDED that Plaintiff's action, docketed as 2:19-cv-01046-
3 GMN-EJY, be dismissed with prejudice.

4 IT IS FURTHER RECOMMENDED that the Clerk of the Court be instructed to close this
5 case and enter judgment accordingly.

6 DATED: January 23, 2020.

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8 ELAYNA J. YOUCHAH
9 UNITED STATES MAGISTRATE JUDGE

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11 **NOTICE**

12 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be
13 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
14 held that the courts of appeal may determine that an appeal has been waived due to the failure to file
15 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also
16 held that (1) failure to file objections within the specified time and (2) failure to properly address
17 and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal
18 factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir.
19 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

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